



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R4-ES-2022-0039; FXES11130400000-223-FF04EF4000]

Renewal of Four Incidental Take Permits for Florida Scrub-jay, Charlotte County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service, announce receipt of an application from Peter Famulari to renew four incidental take permits (ITPs) under the Endangered Species Act. If granted, the renewed ITPs would authorize take of the Florida scrub-jay via destruction of the species' feeding, breeding, and sheltering habitat. The compensatory portion of the mitigation as described in the applicant's habitat conservation plan (HCP), as amended, has been completed; however, none of the activities covered by the HCP have occurred on the covered properties, and there has been no take of the species. We invite comments from the public and Federal, Tribal, State, and local governments on the applicant's HCP, our original set of findings, and our current review and certification which support categorical exclusions under the National Environmental Policy Act.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS-R4-ES-2022-0039 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you

may do so in writing by any of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2022-0039.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R4-ES-2022-0039; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Elizabeth Landrum, by U.S. mail (see **ADDRESSES**) or via phone at 772-469-4304. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an incidental take permit (ITP) application for the renewal of four ITPs under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant is Peter C. Famulari, and the project sites, sizes, existing ITP numbers, and proposed new ITP numbers are:

- 1274 Navigator Road, Property Identification Number 402309287001, Port Charlotte, FL; 0.504 acres; TE136150-1; PER0027573;
- 1178 Melville Road, Property Identification Numbers 402309251001, 402309251002, and 402309251003, Port Charlotte, FL; 1.540 acres; TE136149-1; PER0028218;
- 1072 Melville Road, Property Identification Number 402309130005, Port Charlotte, FL; 0.709 acres; TE136151-1; PER0028219; and,
- 1023 Bismarck Road, Property Identification Number 402309206002, Port Charlotte, FL; 0.459 acres; TE136153-1; PER0028220.

The applicant seeks authority to take Florida scrub-jays (*Aphelocoma coerulescens*) via

destruction of the species' feeding, breeding, and sheltering habitat incidental to land preparation and construction in Charlotte County, Florida. The applicant's existing HCP provides measures to mitigate for the incidental take of the species, which was federally listed as threatened in 1987 (June 3, 1987; 52 FR 20719).

Applicant's Proposed Projects

All four of the applicant's sites are zoned as single-family residential, so the development of each parcel would comprise the construction of a residential structure, driveway, installation of associated utilities and landscaping and possibly garages and pools. However, as the applicant currently has no timeframe for development or specific site plans, he is requesting his existing ITPs to be renewed for 10 more years, with each expiring on May 20, 2029. The applicant already has performed the required compensatory mitigation for impacts to the species by combining two 20-acre parcels (for which he had an assignable purchase contract) with adjacent parcels to form a 76-acre package of land that Charlotte County then acquired and is managing for scrub-jay conservation. The minimization measure of avoiding clearing the lot for construction during the scrub-jay nesting season (March 1 through June 30) cannot be implemented until construction is almost ready to begin. Other minimization measures involving the planting or retention of scrub oaks or other native vegetation cannot be implemented until clearing or construction is underway. Remaining minimization measures about providing information to subsequent buyers about Florida scrub-jays and the detrimental effects of free-roaming cats cannot be implemented until after the construction and sale of each new home is complete. None of the proposed activities have occurred, and there has been no incidental take of the covered species under the permits.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including

your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

During our deliberations on whether to issue the existing ITPs, the Service determined that each of the applicant's projects, including the mitigation measures, individually and cumulatively would have minor or negligible effect on the species. Since none of the covered activities have occurred and the covered parcels have remained undeveloped, we have made the preliminary determination that each of these projects still would be "low effect" and qualify for categorical exclusions under the under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*).

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested renewals. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA and permit renewal requirements in our regulations have been met. If met, the Service will issue the four ITP numbers referenced above to Peter C. Famulari.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Robert L. Carey,
Division Manager, Environmental Review,
Florida Ecological Services Office.